

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA
FOR THE MARCH 25, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Official Creditors' Committee, and Trustee jointly propose the following agenda for the March 25, 2015 status conference. All defendants whose counsel filed notices of appearance in the MDL have been given an opportunity to comment on this proposed agenda.

A. Motions for which oral argument is requested.¹

1. PSC Motion for Entry of Case Management Order Governing Coordination of Dispositive Motions [Dkt. 1711]
 - a. St. Thomas Response [Dkt. 1721]
 - b. TN Clinic Defendants Response [Dkt. 1722]
 - c. Box Hill Response [Dkt. 1727]
 - d. PSC Reply [Dkt. 1733]
 - e. Anonymous Health Clinics Response [Dkt. 1744]
2. St. Thomas Motion and Memorandum to Enforce Court Order Permitting Comparative Fault Discovery Against Settling Parties [Dkts. 1724, 1725]
 - a. TN Clinic Defendants Joinder [Dkt. 1728]
 - b. ARL Response [Dkt. 1745]

B. Report to the Court.

3. Status of mediation efforts
4. Status of insurance declaratory actions:

¹ These motions are also identified in the PSC's Motion to Schedule Oral Argument [Dkt. 1741].

- a. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS; *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
 - b. *Great American E&S Ins. Co. v. Liberty Industries, Inc.*, 3:14-cv-00499-VLB
 - i. Order granting Liberty motion to stay [*Great American* Dkt. 43]
5. Status of discovery
- a. Update on compliance with:
 - i. Judge Boal's Order on the PSC Motion for Clarification Regarding Plaintiff Profile Form Releases and Responses [Dkt. 1709]
 - ii. Judge Boal's Order on PSC Motion to Compel St. Thomas to Respond to Certain Document Requests [Dkt. 1712]
 - b. PSC Notice of Written Discovery Point of Contact [Dkt. 1732]
 - c. In camera review of St. Thomas entities Trust Agreement [per Dkt. 1650] (*before Judge Boal*)
 - i. PSC's Objections to Magistrate Judge Boal's order Denying Its Motion to Compel Production of Insurance Agreements [Dkt. 1618]
 - ii. Order on PSC's Motion to Compel Production of Insurance Agreements [Dkt. 1590]
 - iii. PSC Supplemental Memorandum on Motion to Compel Insurance Agreements [Dkt. 1710]
 - iv. St. Thomas Opposition to PSC Supplemental Memorandum on Motion to Compel Insurance Agreements [Dkt. 1713]
6. Status of litigation track
- a. PSC Notice and Filing of Second Amended Master Complaint [Dkts. 1718, 1719]
 - b. PSC Motion for Expedited Trial (see below)
 - c. PSC Motion for Appointment of Annika K. Martin as *Pro Se* Liaison [Dkt. 1726]
 - d. PSC Notice of *Pro Se* Filing [Dkt. 1723]
7. Status of bankruptcy
- a. Trustee's notices [Dkts. 1706, 1707, 1714, 1715]
8. Status of appeals
- a. Order Staying Proceedings [*Artis et al v. N.E. Compounding Pharmacy, Inc. et al*, 13-2007; 14-1714; 14-1718]
9. Schedule for future status conferences

- a. April 29, 2015, at 11:30 a.m. (Boal); 2:00 p.m. (Zobel)
- b. May 28, 2015, at 2:00 p.m.

C. Fully-briefed motions.

- 10. Joint Stipulation to Stay the Action Between the Arbitrating Parties Pending Binding Arbitration [*Jeffries v. Ameridose*, Dkt. 1672, 14-cv-12789]
- 11. Liberty's Motion for Reconsideration on Summary Judgment [Dkt. 1619] (*oral argument held*)
 - a. PSC's Opposition [Dkt. 1627]
- 12. Ascension Parties' Motion to Certify Dismissal Pursuant to Fed. R. Civ. P. 54(b) [Dkt. 1521] (*oral argument held*)
 - a. PSC's Opposition [Dkt. 1568]
- 13. Liberty Industries, Inc.'s Motion to Strike the Amended Declaration of Philip J. Austin, Ph.D. [Dkt. 1661]
 - a. PSC Opposition to Liberty Industries, Inc.'s Motion to Strike the Amended Declaration of Philip J. Austin, Ph.D. and Declaration of Thomas M. Sobol in support. [Dkt. 1669, 1670]

D. Briefing in progress.

- 14. Dispositive Motions:
 - a. Box Hill Motion to Dismiss [Dkt. 1639]
- 15. St. Thomas Motion and Memorandum to Enforce Court Order Permitting Comparative Fault Discovery Against Settling Parties [Dkts. 1724, 1725]
 - a. TN Clinic Defendants Joinder [Dkt. 1728]
 - b. ARL Response [Dkt. 1745]
- 16. PSC Motion and Memorandum for Entry of Case Management Order Setting Expedited Trial Date [Dkts. 1716, 1717] (*St. Thomas and TN Clinic Defendants object to oral argument at the March 25 status conference as not being fully briefed*)
 - a. TN Clinic Defendants Notice of Automatic Ten-Day Extension [Dkt. 1736]
 - b. St. Thomas Notice of Automatic Ten-Day Extension [Dkt. 1739]
 - c. PSC Response [Dkt. 1740]

Dated: March 24, 2015

Respectfully submitted,

Paul D. Moore
DUANE MORRIS LLP
100 High Street, Suite 2400
Boston, MA 02110-1724
(857) 488-4230
pdmoore@duanemorris.com

*Chapter 11 Trustee for the Estate of New England
Compounding Pharmacy, Inc.*

/s/ Kristen A. Johnson

Thomas M. Sobol, BBO # 471770
Kristen A. Johnson, BBO# 667261
HAGENS BERMAN SOBOL
SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
(617) 482-3700
tom@hbsslaw.com
kristenj@hbsslaw.com

Plaintiffs' Lead Counsel

William R. Baldiga
Kiersten A. Taylor
BROWN RUDNICK LLP
One Financial Center
Boston, Massachusetts 02111
(617) 856-8200
wbaldiga@brownrudnick.com
ktaylor@brownrudnick.com

David J. Molton
BROWN RUDNICK LLP
Seven Times Square
New York, New York 10036
(212) 209-4800
dmolton@brownrudnick.com

*Counsel for the Official Committee of Unsecured
Creditors*

CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Jointly Proposed Agenda for the March 25, 2015 Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: March 24, 2015

/s/ Kristen A. Johnson
Kristen A. Johnson, BBO # 667261